



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

April 7, 1955

Hon. William J. Murray, Jr.
Chairman, Railroad Commission of Texas
Tribune Building
Austin, Texas

Opinion No. S-155

Re: Applicability of the gas
utility tax, Article 6060,
V. C. S., to the income of
a gas pipe line company de-
rived from transportation of
gas.

Dear Mr. Murray:

Your opinion request dated March 11, 1955, reads as follows:

"Assuming that the operations of a gas pipe line are such as to bring it within the definition of a gas utility as stated in Section 2 of Article 6050, R. C. S., and therefore subject to the provisions of Article 6060, would it be exempt from the payment of the one-fourth (1/4) of one (1) per cent gross receipts tax levied by Article 6060 because it does not take title to gas transported, does not make any sales of transported gas, but does bill for and receive payment for the transportation of such gas?"

The pertinent language of Article 6060 of Vernon's Texas Civil Statutes reads as follows:

"Every gas utility. . . shall pay into the State Treasury at Austin a sum equal to one fourth of one per cent of the gross income received from all business done by it within this State during said quarter."

By virtue of Section 10 of Chapter 73 of the Acts of the Forty-Second Legislature, 1931, page 111, this tax applies to those utilities described in Section 2 of Article 6050, V.C. S.

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Assuming the taxpayer is a utility within the definition of Section 2 of Article 6050, the question is whether the tax applies to the income of such utility derived from the transportation of gas.

In our opinion, the tax applies to such income. The business done by such utility as evidenced by the definition of Section 2 of Article 6050 is the "transportation or carriage of natural gas, either for public hire or not". Article 6060 contemplates taxing the gross income received from such business. Any former opinion of the Attorney General, insofar as it may conflict herewith, is hereby overruled.

Summary

The gross income of a gas pipe line company within the definition of Section 2 of Article 6050, V. C. S., from the transportation of gas, is subject to the tax levied by Article 6060, V. C. S. Any former opinion, insofar as it conflicts herewith, is hereby overruled.

APPROVED:

Yours very truly,

Mert Starnes
Oil and Gas Division

JOHN BEN SHEPPERD
Attorney General of Texas

John Atchison
Reviewer

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